



Zieler & Co GmbH General Conditions of Sale Last updated 27/10/2021

1. Scope of application

Our Conditions of Sale apply exclusively to all deliveries and services, unless we have explicitly agreed otherwise with our customers. The customer's T&Cs are not applicable as a whole. Our Conditions of Sale also apply in the event that we make a delivery without reservation in the knowledge of contradictory conditions of the customer or such conditions which deviate from ours.

2. Offer

All offers are subject to change and, unless explicitly stated otherwise, are understood to be per kilogram, DDP, net and EXW Hamburg.

3. Orders

The minimum order value is €200. Surcharges for refills are governed in our most recent price list. We reserve the right to round an order issued up or down in order to be able to make deliveries using the packaging units we have in stock.

4. Payments

Payments shall be made "net in cash" by the date specified on the invoice. Unless otherwise explicitly agreed, no cash discounts shall be granted. The customer is not entitled to offset counter-claims or to enforce a right to withhold payment, unless the counter-claim or right to withhold payment has been acknowledged by us in writing or established as legally effective. If the customer fails to observe his payment obligations, or if other circumstances give rise to doubts concerning the customer's ability to pay, we are entitled (subject to claims beyond such) to withdraw from the current contract with the customer and from other contracts concluded with the same, and to make future deliveries dependent on payment in advance. In case of failure to adhere to the payment deadlines, we reserve the right, after urging the customer in writing to make payment on several occasions, to commission a debt collection company to collect our receivables. Costs incurred shall be borne by the customer. We explicitly reserve the right to enforce further and higher damages.

5. Condition of goods

Where the quality of goods delivered deviates from that of goods procured so far, this shall not provide grounds for defective goods. Goods may deviate in terms of shape, colour, structure, taste, and contents as a result of harvesting or batching. This shall not provide grounds for defective goods, unless the goods deviate from the explicit written agreements with the customer in this respect, or the deviations significantly exceed the usual degree of such.



6. Duty to inspect and submit quality complaints

We shall be notified of clear and obvious defects in writing immediately, and no later than three days after receipt of goods at the destination. The purchaser shall inspect the goods or have such inspected carefully immediately upon arrival at the destination, even if samples or templates have been sent beforehand. We shall be notified of any complaints immediately in writing, and no later than one week after arrival of the goods at the destination. We shall be notified of concealed defects which could not be identified during a timely and careful inspection in writing immediately, and no later than three days upon such becoming known. If the duties to inspect and submit quality complaints governed above are violated, the goods shall be considered accepted. The goods shall also be considered accepted if the purchaser processes or re-sells such, unless the defect could not be identified during an orderly inspection.

7. Damage compensation claims

Damage compensation, on whatever legal grounds, may only be enforced against us in the following cases: a) culpable causation of physical injury or damage to health; b) grossly negligent or wilful causation of other damages; c) simply negligent breach of a material contractual obligation, insofar as an exclusion of liability would impair the purpose of the contract. In the case of the latter, liability is restricted to foreseeable damages typical of such a contract. Claims according to the German Product Liability Act (Produkthaftungsgesetz) are not affected by these provisions.

8. Extended retention of title

We reserve the right of ownership of the goods delivered until receipt of all payments from the business transaction with the customer. Processing or conversion of the goods is performed for us as manufacturer, but without any obligation on our part. In the event that our (co-)ownership lapses as a result of the combining or mixing of goods, it is hereby agreed that we shall be due the right of co-ownership to the new object or mixed inventory proportionately to its value (invoice value) and such right shall transfer to us. The customer shall grant us this (co-)ownership free of charge. Goods, to which we are due a right of (co-)ownership are referred to as reserved goods below. The customer is entitled to process and sell the reserved goods as part of his orderly business, insofar as such occurs under the normal conditions of the customer and under agreement of a retention of title to the extent we claim. Any pledging or security transfer of the reserved goods is not permitted. Those receivables which arise from the re-sale of or other legal grounds concerning the reserved goods (including all balance receivables and account currents) are hereby assigned to us by the customer to their full extent, including all ancillary rights, by way of security. The customer is entitled to claim receivables assigned to us on his own behalf for our account until revocation. In the event of third-parties intervening in the reserved goods, the customer shall refer the third party/parties to our right of ownership and inform us immediately. Costs and damages shall be borne by the customer. In the event that the customer acts in a manner contrary to the contract - in particular in case of default on payment - we are entitled to withdraw from the contract and demand release of the goods. In such case, we shall also be entitled to enter the business premises of the customer and take back possession of the reserved goods at his expense. Upon demand, the customer shall also disclose the names of the debtors of the receivables assigned to us. If the value of securities due to us exceeds the total receivables by more than 20%, we shall be obliged, upon demand of the customer, to release securities in this respect at our discretion.

9. Other reservations



In case of delivery and unloading contracts, changes in customs duties, exchange rates, any new levies and measures of higher authorities, and correct and timely self-delivery (reservation of self-delivery) are reserved. These circumstances shall entitle us to adjust the purchase price accordingly. In case of measures of force majeure, and incorrect or delayed self-delivery and other hindrances to performance, for which we are not responsible, we shall be entitled to postpone the delivery by the duration of the hindrance and an appropriate lead time thereafter. In case of foreseeably persistent hindrances, we are also entitled to withdraw from the contract, in part or in whole. In this case, the customer shall not be obliged to pay the (remaining) consideration, and shall be reimbursed for any advance payments for services not yet rendered immediately. The client shall not be due any damage compensation claims.

10. Place of fulfilment and transfer of risk

Place of fulfilment for our obligations and the obligations of the customer is Hamburg. All sales are understood as EXW Hamburg. Dispatch and transport is always performed at the risk of the orderer. The risk transfers to the customer as soon as the goods have been handed over to the haulier - regardless of whether such is a person belonging to our company or a third person. If the customer delays in accepting the goods, the risk shall transfer to him. Storage costs incurred after transfer of risk shall be borne by the customer.

11. Written form

Transmission via e-mail or fax is sufficient for ensuring written form.

12. Packaging

All deliveries are performed including the necessary and required packaging. With regards to disposal, either this shall be assumed by the purchaser, or the costs for such shall be added to the respective sales prices to the corresponding amount.

13. IFS certification

Zieler & Co has been certified according to IFS Food and Broker since 2019. Not all Zieler & Co's suppliers are IFS-certified. If desired, we will be happy to provide information on whether the supplier of an item is IFS-certified.

14. Place of jurisdiction

Sole place of jurisdiction for all proceedings against us is Hamburg. Place of jurisdiction for all proceedings against the customer shall be either Hamburg or the headquarters of the customer, at our discretion.

15. Applicable law

Notwithstanding individual agreements, the legal relationships between us and the customer are subject to the following regulations in the following order: these Conditions of Sale; the conditions of the "Waren-Verein der Hamburger Börse e.V." (Goods Association of the Hamburg Stock Exchange) which we shall send upon request; the law of the Federal Republic of Germany under exclusion of the CISG.

16. Severability clause

Insofar as individual components of these Conditions of Sale are or become ineffective, this shall not affect the validity of the remaining provisions. The provision in question shall be replaced by a provision to be negotiated individually.